

FINDINGS OF FACT AND DECISION

Case Number:	172271
Student's Name:	████████████████████
Date of Birth:	February 27, 2007
District:	14
Hearing Requested By:	Parent
Date of Hearing:	March 19, 2018 June 19, 2018
Actual Record Closed Date:	June 19, 2018
Hearing Officer:	Margaret Moscariello, Esq.

Hearing Officer's Findings of Fact and Decision

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NAMES AND TITLES OF PERSONS WHO APPEARED ON MARCH 19, 2018

For the Student

Elisa Hyman, Esq., Attorney (Via Telephone)

For the DOE

Geraldine Dorsaint, District Representative (Via Telephone)

NAMES AND TITLES OF PERSONS WHO APPEARED ON JUNE 19, 2018

For the Student

Elisa Hyman, Esq. Attorney

For the DOE

Geraldine Dorsaint, District Representative

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INTRODUCTION

On January 30, 2018, the New York City Department of Education (DOE) appointed me to act as the impartial hearing officer (IHO) in a case brought by the parent of [REDACTED] (DS). The parent claims DS was denied a free and appropriate public education (FAPE) for the 2017-2018 school year.

BACKGROUND

DS was in foster care when the complaint was filed. He was adopted by his foster parent prior to the June 19, 2018 hearing. Prior to adopting DS the foster parent repeatedly requested DS's records. The DOE refused to provide the records. Consequently, the parent was unable to participate in the process.

DISCUSSION

The parties spoke off the record for more than an hour. The DOE agreed to provide the records to which the parent is entitled. Those records are the committee on preschool special education (CPSE) file, including evaluations, Individualized Educational Programs (IEPs) and attendance records for the 2011-2012 school year. In addition, the DOE will provide the parent with the aforementioned records from previous school years to the extent the records exist.

The parent agreed to withdraw her request for attendance records, encounter attendance records for related services, related service progress notes, report cards and, e-mails. Each withdrawal is made without prejudice. In addition, the parent is withdrawing her claim against the DOE for the denial of FAPE for the 2017-2018 school year. This withdrawal is without prejudice as the parent might refile once she receives DS's records.

ORDER

The DOE shall provide the parent the following documents within sixty days. Should a document not exist the DOE will so indicate in writing. The writing will indicate either the document does not exist or cannot be found.

1. The CPSE file, including any evaluations, IEPs and, attendance records
2. District 75 Hospital Records

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3. Encounter attendance reports for related services from the 2011to 2018 inclusive.

4. Automate the Schools (ATS) records

5. DS's cumulative record

6. Any functional behavior assessments (FBAs) and Behavior intervention plans (BIPs) which the parent does not have. The parent has the FBAs dated January 7, 2016, January 18, 2016 and December 18, 2016.

7. The signed signature of all IEPs going back to the 2011-2012 school year until the 2017-2018 school year.

In addition the DOE shall pay enhanced rates for the following independent educational evaluations. The parent may choose the evaluators.

1. A neuropsychological evaluation

2. A psychiatric evaluation

3. A speech and language evaluation including an auditory processing evaluation

4. An assistive technology (AT) evaluation

5. An FBA done by either a Board Certified Behavior Analyst-Doctorate (BCBA-D) or a Ph.D.

Dated: July 12, 2018

Margaret Moscariello *mv*
MARGARET MOSCARIELLO, ESQ.
Impartial Hearing Officer

MM:mv

PLEASE TAKE NOTICE

The parent and/or the New York City Department of Education has a right to obtain a review of this decision by a State Review Officer of the New York State Education Department under Part 200.5(k) of the Regulations of the Commissioner of Education, Section 4404 of the Education Law, and the Individuals with Disabilities Education Act. The Department of Education has designated the New York City Law Department to accept service of papers on its behalf, including appeals of decisions of Impartial Hearing Officers. Such service is made at 100 Church Street, New York, NY 10007 at the Messenger Center.

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DOCUMENTATION ENTERED INTO THE RECORD

STUDENT

A Due process complaint and cover email, 01/30/18, six pages

B Various family court documents, 2009, 2018, 16 pages

C IEP, 12/13/16, 16 pages 16

D Psychiatric, 10/30/17, five pages

E Psychoeducational evaluation, 11/28/16, eight pages

F Psychoeducational evaluation, 5/1/14, four pages

G Speech and language evaluation, 12/13/16, four pages

H Educational evaluation, 11/16/17, two pages

I Psychoeducational evaluation, 10/3/13, ten pages